



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,903	06/24/2003	Darrell L. Metz	8266-1084	2178

7590 08/05/2004

Intellectual Property Group
Bose McKinney & Evans LLP
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, IN 46204

EXAMINER

WEINHOLD, INGRID M

ART UNIT	PAPER NUMBER
----------	--------------

3632

DATE MAILED: 08/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,903

Applicant(s)

METZ ET AL.

Examiner

Ingrid M Weinhold

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

FINAL ACTION

Claim Rejections - 35 USC § 103

Claims 1-4, 7, 8, 10-13, 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sims et al. (4,945,592) in view of Jost et al. (4,905,944). Sims shows a hospital bed comprising a frame, a plurality of casters supporting the frame, a patient support surface coupled to the frame, the patient support surface having a first end, a second end, and opposing first and second sides each extending between the first end and the second end, a first handle (38,40) positioned adjacent the first end and the first side of the patient support surface, and a first coupler (28) configured to operably couple the first handle to the frame. The handle is supported for pivoting movement about a vertical axis of rotation to permit a caregiver to apply a moving force to the patient support. While not shown, Sims discloses in column 4, lines 8-11 that the bed comprises two connections (16), one on either side of the same end of the bed, therefore it is inherent that two handles with the same configurations can be attached to the bed at the same time and therefore only one handle will be discussed in detail since it is to be understood that the second handle will have the same structure. Sims, however, does not show a handle with a movable grip. Jost shows a handle (10) with a grip portion (70) coupled to the handle, and an accessory (12) coupled to the handle. The handle includes an outer telescoping member and the accessory includes an inner telescoping member, which is movable relative to the outer telescoping member to adjust a position of the inner telescoping member relative to the handle. The grip portion (70) is supported for vertical sliding movement and for rotational movement

relative to the handle. A stop (16) is coupled to the outer telescoping member, the stop defining a limit for movement of the grip portion. The accessory comprises an IV pole and further comprises an infusion pump coupled to the IV pole. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have replaced one known handle/IV pole (12) as taught by Sims with another well-known handle/IV pole as taught by Jost in order to be able to easily adjust the vertical positioning of the grip and IV pole.

Claims 5, 6, and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sims et al. (4,945,592) in view of Jost et al. (4,905,944) and further in view of Dennis (4,886,237). Sims and Jost combined show all features claimed by the applicant's invention including a body (Sims "18") coupled to the handle, the coupler (Sims "28") being configured to couple the body to the frame for pivotable movement about an axis of rotation, but does not however show a latch configured to lock the body in place. Dennis shows a body (20), which attaches a handle/IV pole to a bed frame with a coupler, or clutch (pivotal mounting in center of bracket "11"), which is configured to couple the body to the frame, hold the body in a desired position with respect to the frame and permits movement of the body relative to the frame when a predetermined force is applied to the body. Dennis comprises a latch (15) configured to lock the body selectively in one of a plurality of different positions relative to the frame. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have replaced one well known pivoting attachment system (Sims "18" and "28")

as taught by Sims and Jost combined, with another well-known pivoting attachment system ("20" and "11") as taught by Dennis, in order to allow the handle/IV pole to be locked in place.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sims et al. (4,945,592) in view of Jost et al. (4,905,944) and further in view of Wadley (5,556,065). Sims and Jost show all features claimed by the applicant's invention but do not however show one of the accessories being an oxygen tank holder. Handles and IV pole in hospitals are known to have many different types of accessories attached to them so this is the applicant's design choice. Wadley is used to show a handle (96) with many accessories including an oxygen tank holder, which comprises a coupler (110) and an oxygen tank support ("106" and "112") coupled to the coupler, the oxygen tank support being configured to receive and support an oxygen tank (115). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included an oxygen tank support as one of the accessories as taught by Wadley on the handle/IV pole taught by Sims and Jost combined as a matter of design choice and medical needs in the hospital.

Response to Arguments

The applicant argues that the Sims et al. reference does not clearly teach first and second handles disposed on opposing sides of an end of the bed and that it is not inherent. The examiner respectfully disagrees as Sims et al. discusses a handle (40)

Art Unit: 3632

being coupled to a female socket (16) on one side of the bed in great detail. Then Sims discloses that not only is there one female socket (16), but there can be two female sockets (16) located on the same end of the bed (since Sims states that the sockets are located on the headboard) and on opposite sides of a longitudinal centerline. Since there is no further explanation as to what the other female socket (16) is used for it is inherent that it is also used to receive a handle as already disclosed. It is already known in the medical art to have accessories on both sides of the beds, and as another example this is shown in Wadley. So the examiner's rejection stands on the grounds that it would be obvious to have two handles, one in each female socket as taught by Sims.

The applicant also argues that the sockets are to receive accessory supports and not handles. A handle by definition is, "A part that is designed to be held or operated with the hand" (*The American Heritage® Dictionary of the English Language, Fourth Edition*). There is no reason why the accessory supports by Sims wouldn't be considered handles since the vertical member (36) would be held in order to move it. In fact, the handles in the present invention are also accessory supports.

The applicant also argues that the vertical member by Sims and the grip portion by Jost et al. are not meant for the purposes of having a moving force applied to them. This is merely intended use and the handle and grip by Sims and Jost respectively are both capable of having a moving force applied to them in order to move the frame of the bed. And the fact that both of the handles by Sims and Jost are on casters, proves that

they are meant to have a moving force applied to them so they can be moved from one location to another.

The applicant argues that Sims does not show an accessory pole coupled to a handle as claimed in claim 10. In Figure 1, the handle (38,40) clearly shows an accessory pole coupled to the top of the handle.

The applicant argues that claim 17 should be allowable because Jost et al. does not show the rubber sleeve (72) being configured to move relative to the handle (70). The examiner never discussed the rubber sleeve as part of the rejection. In fact, the examiner's rejection included the push handle (10) having a grip portion (70) that was coupled to the handle and moveable with respect to the handle, which meets the claim.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ingrid M Weinhold whose telephone number is 703-306-5762. The examiner can normally be reached on Mon-Tues 5:30AM - 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DW

Ingrid M Weinhold
Patent Examiner
Art Unit 3632
08/03/04


RAMON O. RAMIREZ
PRIMARY EXAMINER